IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1329 OF 2005

Smt.Supriya Sanjeev Kale ..Petitioner

Vs.

Shri.Ranjeet V.Diwadkar
& Anr. ..Respondents

...
Mr.Amber Joshi Advocate for Applicant
Mr.Indrajeet Joshi for Respondent nos.1 and 2
Mr.Y.S.Shinde A.P.P. for the State
...

CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : AUGUST 31,2005

P.C.

1. Heard the learned advocate for the petitioner i.e. original complainant and Mr.Kulkarni, the learned advocate for the respondent nos.1 and 2 i.e. original accused.

2. The complainant filed complaint against respondent nos.1 and 2 before the learned Judicial Magistrate F.C.Thane. The said complaint was under Section 55(3) of the Maharashtra Rent Control Act 1999. The said complaint was numbered as Criminal Case No.637 of 2002.

3. It is the case of the complainant that leave and licence agreement dated 4.10.2001 was executed by both the accused persons and the said Agreement is not registered by the accused persons and thus they have contravened the provisions of Maharashtra Rent Control Act.

4. The learned advocate has submitted that after the complaint was filed, the original of the said Leave and Licence Agreement was tendered by the accused persons in the Court. However, thereafter, the said Leave and Licence Agreement was taken away by the accused persons. It is prayed that the respondents be directed to produce the original of the said Leave and Licence Agreement. An application to that effect was made before the learned Magistrate, however, the learned Magistrate by order dated 16.3.2005 rejected the said application. Being aggrieved by the said order, the petitioner has approached this Court.

5. Few facts relating to this case are that:

. After the complaint came to be filed process came to be issued against the accused persons under Section 55(3) of the Maharashtra Rent Control Act. The said process came to be recalled by the learned Magistrate by order dated 3.6.2004. As the process against the accused persons came to be recalled, the documents tendered by them, came to be returned to them. Being aggrieved by the order of recalling of process by the Magistrate, the petitioner had preferred revision before the Sessions Court. The Sessions Court set aside the order of the learned Magistrate recalling process. In view of this order, the trial has now commenced.

6. It is the case of the complainant that the document i.e. original Leave and Licence Agreement dated 4.10.2001 is the most important and relevant document in the present case and hence, the accused persons be directed to produce the said document. It is well settled that the accused persons cannot be compelled to produce any documents which is incriminatory in nature. The Division Bench of this Court has so held in the case of **Vinayak Purshottam Kalantre Vs. Vikram Balwantrao Deshmukh**

and Ors. [1979 Cri.L.J.71]. In this view of the matter, in my opinion, the respondent i.e. original accused persons cannot be compelled to produce the said documents. Hence, no fault can be found with the order of the learned Magistrate rejecting the application filed by the complainant. No interference is called for.

7. Writ Petition is rejected.

[V.K.TAHILRAMANI,J.]